

**STATE OF MAINE
PUBLIC UTILITIES COMMISSION**

BANGOR HYDRO-ELECTRIC COMPANY
Re: Approval of Special Rate Agreement with
Lincoln Pulp & Paper Co., Inc.

STIPULATION

Docket No. 2001-434

Bangor Hydro-Electric Company ("BHE"), Lincoln Pulp & Paper Co., Inc. ("Lincoln"), and the Office of the Public Advocate hereby agree and stipulate as follows:

PURPOSE

1. The purpose of this Stipulation is to settle all issues in this proceeding, to avoid a hearing on those issues, and to expedite the Public Utilities Commission's consideration and resolution of the proceeding. The provisions agreed to herein have been reached as a result of discussions among the Parties in this case.

PROCEDURAL BACKGROUND

2. BHE and Lincoln are currently parties to a Power Sales Agreement dated December 31, 1996 and as amended by a Letter Agreement dated February 21, 1997 and the Second Amendment (the "Second Amendment") dated June 9, 2000 (collectively the "Original Agreement") pursuant to which BHE provides Lincoln with transmission and distribution service. The Original Agreement was initially a "bundled" contract which the Parties unbundled in accordance with the terms of the Second Amendment and in compliance with 35-A M.R.S.A. §3204(10).

3. Pursuant to the terms of the Original Agreement, as unbundled by the Second Amendment, the contract price for the remainder of the term, March 31, 2002, for T&D service is the amount of the original bundled contract price minus the actual cost of Lincoln's generation service,

provided that Lincoln exercised due diligence in obtaining generation service from a competitive electricity provider. Additionally, per the Second Amendment BHE reallocated two of Lincoln's T&D payments, a total of \$300,000, to Lincoln's competitive electricity provider as a deposit.

4. By Order dated June 16, 2000 the Commission approved the Second Amendment and permitted BHE to defer the \$300,000 for ratemaking purposes if the amount became uncollectible.

Bangor Hydro Electric Co., Order, Dkt. No. 2000-180 (Me. P.U.C. June 16, 2000).

5. Since April 1, 2001 Lincoln has been taking generation service from the Standard Offer Provider and the rate for Standard Offer Service is such that it created a so-called "negative" T&D rate under the Original Contract.

6. Because there is some question regarding the ongoing validity of the Original Agreement and in an attempt to avoid "negative payments" as well as to secure reasonable T&D rates for a longer period of time, the Parties, with some guidance from the Commission staff, negotiated an alternative Special Rate Agreement.

7. Accordingly, the Parties have executed a Special Rate Agreement dated June 27, 2001 (the "Agreement") which in part, (i) rescinds and terminates the Original Agreement; (ii) provides for a discounted T&D rate for Lincoln for a term through March 31, 2006; and (iii) allows Lincoln to elect to require BHE to provide a credit guaranty and a take or pay provision for four one-year generation contracts with a competitive electricity provider. A copy of the Agreement is attached hereto as Exhibit A, including Attachment A to the Agreement which is Designated Confidential Information pursuant to the Protective Order issued in this matter.

8. Pursuant to the Agreement, Lincoln will enter into a a generation supply contract with Energy Atlantic, LLC (the "EA Contract") for a nine month period from July 1, 2001 through March 31, 2002. A copy of the form of EA Contract is attached hereto as Exhibit B. Because Lincoln will make a

fixed payment for both generation service and delivery service to BHE during this period pursuant to their Agreement, BHE is responsible under the EA Contract for payments due to Energy Atlantic. The EA Contract also calls for BHE to assign to Energy Atlantic a 10 MW firm system power, around the clock, contract to use to serve Lincoln under the EA Contract. As a result of the EA Contract, Lincoln will opt-out of Standard Offer Service on July 1, 2001.

9. The proposed effective date of the Agreement, July 1, 2001, is crucial to the Parties' settlement of outstanding issues. The Agreement is subject to Commission approval pursuant to 35-A M.R.S.A. §703(3-A) and by the terms of the Agreement, absent Commission approval by June 28, 2001, the Agreement is null and void. BHE has filed a letter petition dated June 27, 2001 seeking Commission approval of the Agreement.

10. Lincoln is a debtor in Chapter 11 bankruptcy. Accordingly, this Agreement is also subject to approval of the U.S. Bankruptcy Court for the District of Maine. Lincoln has filed a Motion for Approval of the Agreement which will be considered by the Court on June 28, 2001 at 9:00 a.m. Absent such approval, the Agreement is null and void.

APPROVALS AND FINDINGS BY COMMISSION

The Parties to this Stipulation agree and recommend that the Commission conclude this proceeding by issuing an order which approves, accepts and adopts this Stipulation, including the following provisions:

1. Find the terms of the Agreement to be reasonable and, pursuant to 35-A M.R.S.A. §703(3-A), unconditionally approve the Special Rate Agreement between Bangor Hydro-Electric Company and Lincoln Pulp & Paper Co., Inc.;
2. Waive, pursuant to Ch. 301, §§10, the application of the Standard Offer opt-out penalty to Lincoln as required under Ch. 301, §2(C)(2)(c); and

3. Waive, pursuant to Ch. 301, § 10, the notice to transfer requirement provided in Ch. 301, § 2(D)(4) to allow Lincoln to immediately transfer from Standard Offer Service to a competitive electricity provider with less than 48 hours notice.

PROCEDURAL STIPULATIONS

1. The parties to this Stipulation hereby waive their rights to request reconsideration pursuant to Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110), to appeal pursuant to 35-A M.R.S.A. § 1320, or to otherwise seek reconsideration or judicial review of any Commission Order approving this Stipulation.
2. The parties to the Stipulation hereby waive any rights that they have under 5 M.R.S.A. § 9062(4) and Section 742 of the Commission Rules of Practice and Procedure to the extent necessary to permit the Advisory Staff to discuss this Stipulation and the resolution of this case with the Commissioners at the Commission's scheduled deliberations, without providing to the parties an Examiners Report or the opportunity to file Exceptions.
3. The record on which the parties enter into this Stipulation and on which the Commission may base its determination whether to accept and approve this Stipulation shall consist of BHE's Request for Approval and all attachments thereto including the Special Rate Agreement, and any other material furnished by the Advisory Staff to the Commission, either orally or in writing, to assist the Commission in deciding whether to accept and approve this Stipulation.
4. This Stipulation shall not be considered legal precedent, nor shall it preclude a party from raising any issues in any future proceeding or investigation on similar matters subsequent to this proceeding.
5. This Stipulation represents the full agreement between the parties to the Stipulation and

rejection of any part of this Stipulation constitutes a rejection of the whole.

6. If not accepted by the Commission in accordance with the provisions hereof, this Stipulation shall not prejudice the positions taken by any party before the Commission in this proceeding and shall not be admissible evidence therein or in any other proceeding before the Commission.

Respectfully submitted this 27th day of June, 2001.

OFFICE OF THE PUBLIC ADVOCATE

By:

Its:

LINCOLN PULP & PAPER CO., INC.

By:

Its:

BANGOR HYDRO-ELECTRIC COMPANY

By:

Its: